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Agenda item 146

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

Rapporteur: Mr. Rytis **Paulauskas** (Lithuania)

I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the agenda of the fifty-third session of the General Assembly in accordance with Assembly resolution 51/155 of 16 December 1996.

2. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 33rd and 34th meetings, on 17 and 19 November 1998. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/53/SR.33 and 34).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/53/287).

II. Consideration of draft resolution A/C.6/53/L.17

5. At the 33rd meeting, on 17 November, the representative of Sweden, on behalf of *Angola, Argentina, Australia, Austria, Belgium, Canada, Chile, Croatia, Denmark, Fiji, Finland, Germany, Greece, Iceland, Ireland, Italy, Netherlands, New Zealand, Norway, Poland, Portugal,* the *Russian Federation, Spain, Sweden, the former Yugoslav Republic*

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of Macedonia and *Ukraine*, subsequently joined by *Cameroon, Slovenia, South Africa* and the *United Kingdom of Great Britain and Northern Ireland*, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/53/L.17).

6. At the 34th meeting, on 19 November, the representative of Sweden orally revised the tenth preambular paragraph of the draft resolution by replacing the words "fundamental standards of humanity" by the words "minimum humanitarian standards".

7. At the same meeting, the Committee adopted draft resolution A/C.6/53/L.17, as orally revised, without a vote (see para. 9).

8. After the adoption of the draft resolution, the representative of Israel made a statement in explanation of position (see A/C.6/53/SR.34).

III. Recommendation of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994 and 51/155 of 16 December 1996,

Having considered the report of the Secretary-General[1] on the status of the Protocols[2] Additional to the Geneva Conventions of 1949[3] and relating to the protection of victims of armed conflicts,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I, and recalling that the International Fact-Finding Commission may, where necessary, facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and the Protocol,

Stressing also the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

[1] A/53/287.

[2] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

[3] Ibid., vol. 75, Nos. 970–973.

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the two additional Protocols,

Noting that the Twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the recommendation of the Intergovernmental Group of Experts on the Protection of War Victims, including that the depositary of the Geneva Conventions of 1949 should organize periodic meetings of States parties to the Conventions to consider general problems regarding the application of international humanitarian law,

Acknowledging the fact that the Rome Statute of the International Criminal Court, adopted on 17 July 1998,[4] includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting the analytical report of the Secretary-General on minimum humanitarian standards[5] submitted to the Commission on Human Rights at its fifty-fourth session,

Noting also that international humanitarian law has been an important topic during the United Nations Decade of International Law, which will come to a close in 1999, fifty years after the adoption of the Geneva Conventions, and that the importance of this body of law will be highlighted in the context of the celebration in 1999 at The Hague and in St. Petersburg of the centennial of the first International Peace Conference,

1. *Appreciates* the virtually universal acceptance of the Geneva Conventions of 1949,[3] and notes the trend towards a similarly wide acceptance of the two additional Protocols of 1977;[2]

2. *Appeals* to all States parties to the Geneva Conventions of 1949 that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;

4. *Calls upon* all States parties to the additional Protocols to ensure their wide dissemination and full implementation;

5. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

6. *Welcomes* the activities of the Advisory Service of the International Committee of the Red Cross in supporting efforts undertaken by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

7. *Welcomes also* the holding in January 1998 of the first periodic meeting on the application of international humanitarian law;

8. *Notes* the holding in October 1998 of the Meeting of Experts on General Problems of the Implementation of the Fourth Geneva Convention;

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[4] A/CONF.183/9.

[5] E/CN.4/1998/87 and Add.1.

9. *Requests* the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on the status of the additional Protocols, as well as measures taken to strengthen the existing body of international humanitarian law, *inter alia*, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

10. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

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Fifty-third session
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Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

Report of the Sixth Committee

Rapporteur: Mr. Rytis **Paulauskas** (Lithuania)

I. Introduction

1. The item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" was included in the agenda of the fifty-third session of the General Assembly pursuant to Assembly resolution 51/156 of 16 December 1997.

2. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include the item in the agenda of its fifty-third session and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 29th to 31st meetings, on 13 and 16 November 1998. The views of representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/53/SR.29–31).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Reports of the Secretary-General (A/INF/52/6 and Add.1 and A/53/276 and Corr.1);

(b) Letter dated 2 September 1998 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General (A/53/317–S/1998/831);

(c) Letter dated 18 August 1998 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General (A/53/353);

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(d) Identical letters dated 10 September 1998 from the Permanent Representative of the Islamic Republic of Iran addressed to the Secretary-General and the President of the Security Council (A/53/360–S/1998/846);

(e) Letter dated 15 September 1998 from the Permanent Representative of Austria addressed to the Secretary-General (A/53/403);

(f) Letter dated 16 September 1998 from the Permanent Representative of the Islamic Republic of Iran addressed to the Secretary-General (A/53/405).

II. Consideration of draft resolution A/C.6/53/L.11

5. At the 30th meeting, on 16 November, the representative of Finland, on behalf of *Argentina, Austria, Canada, Chile*, the *Czech Republic, Denmark, Finland, Germany, Hungary, Iceland, Lesotho*, the *Netherlands, Norway, Romania*, the *Russian Federation, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey*, the *United Kingdom of Great Britain and Northern Ireland, Uruguay* and *Zimbabwe*, subsequently joined by *Bulgaria* and *Italy*, introduced a draft resolution entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" (A/C.6/53/L.11).

6. At its 31st meeting, on 16 November, the Committee adopted draft resolution A/C.6/53/L.11 without a vote (see para. 8).

7. After the adoption of the draft resolution, the representative of Mexico made a statement in explanation of position (see A/C.6/53/SR.31).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the reports of the Secretary-General,[1]

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Alarmed by the recent acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which have endangered or taken innocent lives and seriously impeded the normal work of such representatives and officials,

[1] A/INF/52/6 and Add.1 and A/53/276 and Corr.1.

Expressing sympathy for the victims of such illegal acts,

Welcoming the Security Council resolutions and statements by the President of the Security Council in relation to flagrant violations of the protection, security and safety of diplomatic and consular missions and representatives, as well as missions and representatives of international intergovernmental organizations and officials of such organizations,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Also recalling that diplomatic and consular premises must not be used in any manner incompatible with the diplomatic or consular functions,

Emphasizing the duty of States to take all appropriate measures as required by international law, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to that end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established under General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. *Takes note* of the reports of the Secretary-General;[1]

2. *Strongly condemns* acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. *Also strongly condemns* the recent acts of violence against such missions, representatives and officials, referred to in relevant reports under this item;

4. *Urges* States to strictly observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

5. *Also urges* States to take all necessary measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above and to ensure, with the participation of the United Nations, where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

6. *Recommends* that States cooperate closely through, *inter alia*, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular

missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof;

7. *Urges* States to take all appropriate measures, in accordance with international law, at the national and international levels to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

8. *Recommends* that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its juridical authorities in order to bring offenders to justice;

9. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

10. *Also calls upon* States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means for the peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

11. *Requests* all States to report to the Secretary-General in accordance with paragraph 9 of resolution 42/154 of 7 December 1987;

12. *Requests* the Secretary-General to issue a report on the item, in accordance with paragraph 12 of resolution 42/154, containing also an analytical summary of the reports received under paragraph 11 above, on an annual basis, as well as to proceed with his other tasks pursuant to the same resolution;

13. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".

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Convention on jurisdictional immunities of States and their property

Report of the Sixth Committee

Rapporteur: Mr. Rytis **Paulauskas** (Lithuania)

I. Introduction

1. The item entitled "Convention on jurisdictional immunities of States and their property" was included in the agenda of the fifty-third session of the General Assembly pursuant to Assembly resolution 52/151 of 15 December 1997.

2. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 23rd and 35th meetings, on 9 and 24 November 1998. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/53/SR.23 and 35).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/53/274 and Add.1).

II. Consideration of draft resolution A/C.6/53/L.19/Rev.1

5. At the 35th meeting, on 24 November, the representative of *Japan*, and coordinator of the informal consultations, introduced a draft resolution entitled "Convention on jurisdictional immunities of States and their property" (A/C.6/53/L.19/Rev.1).

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6. At the same meeting, the Chairman of the Committee made a statement (see A/C.6/53/SR.35).

7. Also at the same meeting, the Committee adopted draft resolution A/C.6/53/L.19/Rev.1 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Convention on jurisdictional immunities of States and their property

The General Assembly,

Taking note of the set of draft articles on jurisdictional immunities of States and their property[1] adopted by the International Law Commission at its forty-third session, as well as its recommendation that an international conference of plenipotentiaries be convened to examine the draft articles and to conclude a convention on the subject,[2]

Recalling that, in its resolution 49/61 of 9 December 1994, it accepted the recommendation of the International Law Commission,

Recalling also that, in its resolution 52/151 of 15 December 1997, it decided to consider the subject again at its fifty-third session with a view to the establishment of a working group at its fifty-fourth session,

Reaffirming that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Having considered the report of the Secretary-General,[3]

1. *Decides* to establish an open-ended working group of the Sixth Committee, open also to participation by States members of the specialized agencies, at its fifty-fourth session to consider outstanding substantive issues related to the draft articles on jurisdictional immunities of States and their property adopted by the International Law Commission, taking into account the recent developments of State practice and legislation and any other factors related to this issue since the adoption of the draft articles, as well as the comments submitted by States in accordance with paragraph 2 of resolution 49/61 and paragraph 2 of resolution 52/151, and to consider whether there are any issues identified by the working group upon which it would be useful to seek further comments and recommendations of the Commission;

2. *Invites* the International Law Commission to present any preliminary comments it may have regarding outstanding substantive issues related to the draft articles, by 31 August 1999, in the light of the results of the informal consultations held pursuant to General Assembly decision 48/413 of 9 December 1993 and taking into account the recent developments of State practice and other factors related to this issue since the adoption of the draft articles, in order to facilitate the task of the working group;

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[1] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10), para. 28.

[2] Ibid., para. 25.

[3] A/53/274 and Add.1.

3. *Decides* to include in the provisional agenda of its fifty-fourth session the item entitled "Convention on jurisdictional immunities of States and their property".